

REMARKS

The Final Office Action dated October 5, 2009 indicated objections to the specification and claims 1 and 14, and the following rejections: claims 1-20 stand rejected under 35 U.S.C. § 103(a) over Seefeldt (U.S. Patent No. 4,978,633) in view of at least one of Hirakimoto (U.S. Patent Pub. 2004/0031007 and Nassif (U.S. Patent Pub. 2004/0073881); and claims 1-20 stand rejected under 35 U.S.C. § 103(a) over Pryor (U.S. Patent No. 4,612,618) in view of at least one of Hirakimoto and Nassif. Applicant traverses all rejections, and further does not acquiesce to any averments made in the Office Action, unless Applicant expressly indicates otherwise.

Applicant respectfully traverses the § 103(a) rejections because the cited combinations of references lack correspondence to the claimed invention. For example, none of the asserted references teach the claimed invention “as a whole” (§ 103(a)) including, *e.g.*, that the combined distance of the lengths of the conductors between the circuit element and the power and ground pads is the same for each of the circuit elements. Because none of the references teach these aspects, no reasonable combination of these references can provide correspondence to the claimed invention. As such, the § 103 rejections fail.

Applicant has previously explained in detail the lack of correspondence between the claimed invention and the cited ‘633 and ‘618 references. In response thereto, the Examiner has improperly relied upon alleged correspondence between the cited references and Applicant’s Fig. 3, while failing to address the actual claim limitations as required. In particular, the Examiner’s assertion that “the power distribution layout is symmetrical” in the cited references and that this symmetrical layout corresponds to “the power distribution layout in fig.3 of the instant Application” is improper because the claimed invention does not recite a symmetrical power distribution layout. In fact, the word symmetrical is not found in Applicant’s claims. Applicant respectfully submits that, as with the alleged “complementary factor” of cited references, the alleged “symmetrical” power distribution layout of the cited references is an interpretation by the Examiner based solely upon the figures of the cited references and which is unsupported by the remainder of the cited references (*e.g.*, the ‘633 and ‘618 references do not mention the word symmetrical). As such, the record is clear that the cited ‘633 and ‘618

references do not expressly correspond to the claimed invention. At best, the Examiner has presented a theory of inherency based on the Examiner's assertion of "complementary factor" and "symmetrical" power distribution layout alleged to be present in the relied upon figures of the cited references. However, since the relied upon figures of '633 and '618 references do not provide sufficient detail with regard to the connections between the asserted conductors and the asserted circuit elements, such a theory of inherency is based on mere possibilities and the rejections necessarily fail. *See, e.g.,* M.P.E.P. § 2112 discussed below. For example, the asserted conductors could connect to different ones of the asserted circuit elements at different locations in both of the references thereby resulting in combined distances that are not the same.

Moreover, the Examiner has misinterpreted Applicant's previous arguments with regard to the '633 and '618 references not stating that the relied upon figures are drawn to scale. The fact that the '633 and '618 references do not indicate that the relied upon figures are drawn to scale is further evidence that the '633 and '618 references do not support the Examiner's conclusions with regard to "complementary factor" and "symmetrical" power distribution layout and that such conclusions are improperly based solely on the relied upon figures of the references. Thus, Applicant respectfully submits that the record is clear with regard to the rejections being improperly based on unsupported conclusions and mere possibilities. The following discussion particularly addresses the impropriety of each of the rejections.

Regarding the § 103 rejection based on the '633 reference, the '633 reference does not teach that the combined distance of the lengths of power supply buses 73 and 77 (*i.e.*, the asserted power and ground buses) between cells 61-65 (*i.e.*, the asserted circuit elements) and pads 71 and 75 (*i.e.*, the asserted power and ground pads) is the same for each of the cells 61-65. *See, e.g.,* Figure 3. The rejection appears to be based solely on the Examiner's unsupported conclusion that the combined distances between each of the cells 61-65 and the pads 71 and 75 are equal "due to complementary factor" that is allegedly shown in Figure 3. The discussion of Figure 3 in the '633 reference, however, does not state that the combined distances between each of the cells 61-65 and the pads 71 and 75 are equal. *See, e.g.,* Col. 4:20 to Col. 5:23. The '633 reference also does not make any mention of the "complementary factor" or a "symmetrical" power distribution

layout as discussed by the Examiner. Thus, there is no express correspondence to the claimed invention and the rejection appears to rely upon a theory of inherency based solely on Figure 3. However, such a rejection would be improperly based on mere possibilities in violation of the M.P.E.P. and relevant law. To establish inherency, the extrinsic evidence “must make clear that the missing descriptive matter *is necessarily present in the thing described in the reference*, and that it would be so recognized by persons of ordinary skill.” *Continental Can Co. v. Monsanto Co.*, 948 F.2d 1264, 1268 (Fed. Cir. 1991) (emphasis added). “Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.” *See, also* M.P.E.P. § 2112. Applicant respectfully submits that it is impossible to determine whether the combined distances between each of the cells 61-65 and the pads 71 and 75 are equal based solely on Figure 3 because the ‘633 reference does not state that Figure 3 is drawn to scale and because Figure 3 does not provide any detail regarding exactly where/how the power tracks 81-84 (which connect to buses 73 and 77) are connected to the cells 61-65. Applicant submits that the power tracks 81-84 could connect to the cells 61-65 in a manner that results in the combined distance of the lengths of power supply buses 73 and 77 being different for different ones of the cells 61-65. As such, there is no inherent correspondence to the claimed invention. Accordingly, the rejection is improperly based on the Examiner’s unsupported assertions regarding the alleged teachings of ‘633 reference and the mere possibility that the combined distances between each of the cells 61-65 and the pads 71 and 75 could be equal. Applicant submits that the ‘007 and ‘881 references do not address the above discussed deficiencies of the ‘633 reference. Therefore, the § 103 rejection based on the ‘633 reference is improper and Applicant requests that it be withdrawn.

Regarding the § 103 rejection based on the ‘618 reference, the ‘618 reference does not teach that the combined distance of the lengths of power supply buses 122 and 124 (*i.e.*, the asserted power and ground buses) between cells 10 (*i.e.*, the asserted circuit elements) and pads 122P and 124P (*i.e.*, the asserted power and ground pads) is the same for each of the cells 10. *See, e.g.*, Figure 3. As with the rejection based on the ‘633 reference discussed above, this rejection also appears to be based solely on the

Examiner's unsupported conclusion that the combined distances between each of the cells 10 and the pads 122P and 124P are equal "due to complementary factor" and the "symmetrical" power distribution layout that is allegedly shown in Figure 3. The discussion of Figure 3 in the '618 reference, however, does not state that the combined distances between each of the cells 10 and the pads 122P and 124P are equal. *See, e.g.*, Col. 4:33 to Col. 5:14. The '618 reference also does not make any mention of the "complementary factor" of the "symmetrical" power distribution layout discussed by the Examiner. Thus, there is no express correspondence to the claimed invention and the rejection appears to rely upon a theory of inherency based on Figure 3. However, such a rejection would also be improperly based on mere possibilities in violation of the M.P.E.P. and relevant law, as with the rejection based on the '633 reference discussed above. Applicant respectfully submits that it is impossible to determine whether the combined distances between each of the cells 10 and the pads 122P and 124P are equal based solely on Figure 3 because the '618 reference does not state that Figure 3 is drawn to scale and because Figure 3 does not provide any detail regarding exactly where/how the power buses 22 and 24 (which connect to buses 122 and 124) are connected to the cells 10. Applicant submits that the power supply buses 122 and 124 could connect to the cells 10 in a manner that results in the combined distance of the lengths of power supply buses 122 and 124 being different for different ones of the cells 10. As such, there is no inherent correspondence to the claimed invention. Accordingly, the rejection is improperly based on the Examiner's unsupported assertions regarding the alleged teachings of '618 reference and the mere possibility that the combined distances between each of the cells 10 and the pads 122P and 124P could be equal. Applicant submits that the '007 and '881 references do not address the above discussed deficiencies of the '618 reference. Therefore, the § 103 rejection based on the '618 reference is improper and Applicant requests that it be withdrawn.

Regarding the objection to the specification, Applicant prefers not to add section headings. Such section headings are not statutorily required for filing a non-provisional patent application under 35 U.S.C. § 111(a). The guidelines at 37 CFR 1.51(d) are only suggestions for Applicant's use and are not mandatory. When Rule 77 was amended in 1996, Bruce A. Lehman, Assistant Secretary of Commerce and Commissioner of Patents

and Trademarks, stated in the Official Gazette: "Section 1.77 is permissive rather than mandatory. ... 1.77 merely expresses the Office's preference for the arrangement of the application elements. The Office may advise an applicant that the application does not comply with the format set forth in 1.77, and suggest this format for the applicant's consideration; however, the Office will not require any application to comply with the format set forth in 1.77." See 61 FR 42790, Aug. 19, 1996. Thus, Applicant respectfully declines to add section headings.

Applicant respectfully traverses the objection to claims 1 and 14 because the Examiner does not appear to have presented any basis for the objection. The Examiner states that it is "unclear and incomplete as to how or what in the configuration/arrangement that makes each of the combined distances being equal." As such, the Examiner appears to be improperly asserting that the limitations need to be added to claims 1 and 14. Applicant respectfully submits that claims 1 and 14 state that each of the combined distances are equal as would be clear to the skilled artisan. The Examiner has not presented any basis for requiring that additional limitations be added with regard to how or what in the configuration/arrangement makes each of the combined distances equal. Applicant notes that the breadth of a claim is not to be equated with indefiniteness. *See, e.g.*, M.P.E.P. § 2173.04. Thus, Applicant requests that the objection to claims 1 and 14 be removed.

Applicant believes that each of the rejections and objections has been overcome and the application is in condition for allowance. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is asked to contact the agent overseeing the application file, Peter Zawilski, of NXP Corporation at (408) 474-9063.

Please direct all correspondence to:

Corporate Patent Counsel
NXP Intellectual Property & Standards
1109 McKay Drive; Mail Stop SJ41
San Jose, CA 95131

By: 

Name: Robert J. Crawford
Reg. No.: 32,122
(NXPS.459PA)

CUSTOMER NO. 65913